

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

KIMBERLY NESTER,)	
)	
Plaintiff,)	Case No. 17-cv-10487
)	
vs.)	
)	
CREDIT ONE FINANCIAL d/b/a)	
CREDIT ONE BANK)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant, Credit One Financial d/b/a Credit One Bank (“Credit One”), by its counsel, submits this Notice of Removal pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. As grounds for its removal, Credit One states as follows:

1. Credit One is named as the defendant in a civil action filed on or about January 5, 2017 (the “Complaint”) by Plaintiff Kimberly Nester (“Plaintiff”), in the Small Claims Court of the 24th Judicial District Court, State of Michigan, Case No. 17-47694A, captioned *Kimberly Nester v. Credit One Bank* (the “State Court Action”).

2. Credit One was served with a summons and copy of the Complaint in the State Court Action on or about January 25, 2017. *See Exhibit A* hereto (copies of the Complaint in the State Court Action and the summons).

3. This Notice of Removal is timely under 28 U.S.C. § 1446(b) and Federal Rule of Civil Procedure 6(a) because Credit One filed this Notice of Removal within 30 days of service of the summons and Complaint, excluding “the day of the act, event, or default from which the designated period of time beings to run” and the last day if it is a Saturday, Sunday, or legal holiday.

4. Credit One has not yet filed an answer or otherwise responded to the Complaint in the State Court Action.

5. Removal to this district court is proper because this is the district which embraces the county in which Plaintiff filed the State Court Action within the meaning of 28 U.S.C. § 1446(a).

6. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441(a), because Count III of the complaint arises under the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* See Ex. A.

7. This Court has supplemental jurisdiction over all other claims asserted by Plaintiff pursuant to 28 U.S.C. § 1367(a) and 28 U.S.C. § 1441(c).

8. As required by 28 U.S.C. § 1446(d), Credit One is providing written notice of the removal of this action to Plaintiff and to the Small Claims Court of the 24th Judicial District Court, contemporaneously with the filing of this Removal.

9. Pursuant to 28 U.S.C. § 1446(a), attached as Exhibit A are accurate copies of all papers received by Credit One as of the filing of this Removal.

WHEREFORE, Credit One requests that the State Court Action be removed from state court to this Court, and that this Court assume jurisdiction over the action and determine it on the merits.

Dated: February 15, 2017

Respectfully submitted,

**CREDIT ONE FINANCIAL d/b/a
CREDIT ONE BANK**

By: /s/ Amy R. Jonker
Amy R. Jonker (6283174)
MAURICE WUTSCHER, LLP
250 Monroe Avenue, N.W.
Suite 400
Grand Rapids, MI 49503
Phone: 616-717-5677
ajonker@mauricewutscher.com
Attorney for Credit One Financial d/b/a Credit One Bank

Certificate of Service

The undersigned hereby certifies that, on this **15th day of February, 2017**, I filed a copy of the foregoing electronically and served the following by regular mail, postage-prepaid:

Kimberly Nester
8315 Mayfair
Taylor, MI 48180
Plaintiff, pro se

/s/ Amy R. Jonker

Exhibit A

Approved, SCAO

Original - Court (with instructions)
1st copy - Defendant (with instructions)2nd copy - Plaintiff (with instructions)
3rd copy - Return (with proof of service)STATE OF MICHIGAN
24th JUDICIAL DISTRICTAFFIDAVIT AND CLAIM
Small Claims

CASE NO.

17-47694A

Court address

6515 ROOSEVELT, ALLEN PARK, MI 48101

Court telephone no.
(313)928-1899

See additional notice and instructions on the back of plaintiff and defendant copies.

1. KIMBERLY NESTER
Plaintiff
8315 MAYFAIR
Address
TAYLOR MI. 48180 313-515-2379
City, state, zip Telephone no.
2. CREDIT ONE BANK
Defendant
P.O. BOX 98873
Address
LAS VEGAS NV. 89193-8873
City, state, zip Telephone no.

NOTICE OF HEARING

For Court Use Only

The plaintiff and the defendant must be in court on

THURSDAY, 2-16-17
Day Date
at 1:30 p.m. at ☒ the court address above.
Time
☐ Location
Process server's name Fee paid: \$

- ☐ 3. A civil action between these parties or other parties arising out of the transaction or occurrence alleged in this complaint has been previously filed in _____ Court. The case number, if known, is _____
The action ☐ remains ☐ is no longer pending.
4. I have knowledge or belief about all the facts stated in this affidavit and I am
☒ the plaintiff or his/her guardian, conservator, or next friend: ☐ a partner: ☐ a full-time employee of the plaintiff.
5. The plaintiff is ☒ an individual. ☐ a partnership. ☐ a corporation. ☐ a sole proprietor. ☐ Other _____
6. The defendant is ☐ an individual. ☐ a partnership. ☒ a corporation. ☐ a sole proprietor. ☐ Other _____
7. The date(s) the claim arose is/are _____
Attach separate sheets if necessary
8. Amount of money claimed is \$ 500.00 (NOTE: Plaintiff's costs are determined by the court and awarded as appropriate. They are not part of the amount claimed.)
9. The reasons for the claim are: VIOLATION OF THE FAIR CREDIT REPORTING ACT SECTION 623 (A)(3),
YOU FAILED TO REMEDY MY DISPUTE WITHIN 30 DAYS AS REQUIRED BY LAW. I WILL
BE SEEKING \$500.00 IN DAMAGES FOR 1. DEFAMATION, 2. NEGLIGENCE, 3. VIOLATION OF THE FAIR CREDIT REPORTING ACT.
10. The plaintiff understands and accepts that the claim is limited to \$5,500 by law and that the plaintiff gives up the rights to
(a) recover more than this limit, (b) an attorney, (c) a jury trial, and (d) appeal the judge's decision.
11. I believe the defendant ☒ is ☐ is not mentally competent. I believe the defendant ☒ is ☐ is not 18 years or older.
12. ☐ I do not know whether the defendant is in the military service. ☒ The defendant is not in the military service.
☐ The defendant is in the military service.

Signature

Subscribed and sworn to before me on 1-5-17

County, Michigan.

My commission expires: _____

Date

Signature: _____

Deputy clerk/Notary public

Notary public, State of Michigan, County of _____

The defendant(s) must be served by 4-6-17
Expiration date

COMP

01/05/2017

Kimberly Nester
8315 Mayfair
Taylor Michigan 48180

JAN 25 2017

Credit One Bank
P.O. Box 98873
Las Vegas NV. 89193-8873

Re: Acct # 444796220316****

To Whom It May Concern:

This letter is a follow up to my original letter dated 10/11/2016 regarding an inaccuracy on my credit reports, regarding account # 444796220316****, which you claim my account was charged off 654.00 dollars.

Yet again, you have failed to provide me with a copy of any viable evidence submitted by Credit One Bank.

Given that I believe you are acting in bad faith, and have not complied with the Federal Trade Commission (see 15 USC 41, et seq.), I have filed a Small Claims lawsuit against you.

I have maintained careful records of your actions, and you are now required to appear at State of Michigan 24th Judicial District, 6515 Roosevelt, Allen Park, Mi 48101 on 02/16/2017 regarding case # 17-47674A

I am seeking 500.00 in damages for:

- 1.) Defamation
- 2.) Negligent Enablement of Identity Fraud
- 3.) Violation of the Fair Credit Reporting Act & Fair Debt Collection Practices Act

Prior to our court date on 02/16/2017 if you should decide to correct your records and remove the negative and false item in question, you can contact me at the address above, and I will subsequently drop the lawsuit.

Sincerely,

Kimberly Nester

P.S. Please be aware that dependent upon your response, I may be detailing any potential issues with your company via an online public press release, including documentation of any small claims action.

WQS P T WAL